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September 24, 1991

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Re: Change in Ownership - Transfer of Base-Year Value

Dear Mr. :

This is in response to your letter of August 27, 1991, in which you request our opinion and analysis regarding the change in ownership implications of the following transfer:

In 1976, you purchased a personal residence in Orange County which you have continuously resided in to the present. In 1979, you deeded a one-half interest in your residence to your business partner (tenants in common) and the two of you purchased an adjacent home as tenants in common.

On October 26, 1990, you and your former partner traded interests in adjacent properties resulting in your now owning 100 percent of your personal residence.

You inquire concerning the intent of Proposition 60, and you seek approval for utilizing the base-year value of Proposition 60 on the one-half interest deeded back to you in the 1990 exchange.

Proposition 60 which was adopted by the voters in November of 1986 authorized the legislature to provide for the transfer of base-year value to a "replacement dwelling" of equal or lesser value located in the same county which is acquired by a qualified taxpayer. Revenue and Taxation Code section 69.5 provides for the transfer of base-year value to a "replacement dwelling" of equal or lesser value which is acquired by a qualified taxpayer "within two years of the sale by that person of the original property." (Subd.(a)). The term "original property" is defined as:

a building, structure, or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by the claimant as his or her principal place of residence....
(Subd.(g)(4)).

September 24, 1991

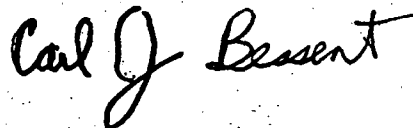
The term "replacement dwelling" is defined as:
a building, structure or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by a claimant as his or her principal place of residence...
(Subd. (g)(3)).

As you can see from the above description and definitions, section 69.5 expressly requires the sale of the "original property" and acquisition of a "replacement dwelling" within two years. In your situation, you acquired the "original property" in 1976 and have continuously resided in that residence to the present. As you indicated, the adjacent dwelling in which you held an interest was never your principal place of residence. Thus, neither the 1979 nor the 1990 transaction involved a replacement dwelling as a principal place of residence. Since you have not acquired and occupied a replacement dwelling as a principal place of residence, you have not yet qualified for section 69.5 benefits.

The views expressed in this letter are advisory only and are not binding upon the assessor of any county. You may wish to consult the Orange County Assessor in order to confirm that the subject property will be assessed in a manner consistent with the conclusion stated above.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestion that help us to accomplish this goal are appreciated.

Very truly yours



Carl J. Bessent
Tax Counsel

CJB:jd
4119H

cc: Honorable Bradley L. Jacobs
Orange County Assessor
Mr. John W. Hagerty
Mr. Verne Walton